

February 28, 2001

**TO:** Mayor and City Council

**FROM:** Douglas C. Mousel, Senior Planner

**SUBJECT:** Results of the Planning & Zoning Meeting, February 27, 2001

**The following item is scheduled for the March 20, 2001, City Council Meeting**

**Public Hearing:** Zoning Case Z2000-62  
**Applicant(s):** City of Frisco

**DESCRIPTION:**

A request to amend Article I, Section 11 of the Comprehensive Zoning Ordinance regarding changes and amendments to the Zoning Ordinance and Districts. Tabled 11/28/00, 12/27/00 and 01/23/01.

**APPROVED:** 4-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**RECOMMENDATION:**

Recommend for approval as follows: (For your convenience new text is underlined and deleted text is ~~struck-out~~)

SECTION 11  
**CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES  
AND DISTRICTS AND ADMINISTRATIVE PROCEDURES**

**11.01 AUTHORITY TO AMEND ORDINANCE:**

The City Council may from time to time, after receiving a final report thereon by the Planning and Zoning Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any Ordinance regulations or Zoning District boundary amendment may be ordered for consideration by:

- City Council
- Planning and Zoning Commission
- Owner of real property (or the authorized representative of an owner of real property)

**Agenda No.: 6****Public Hearing:** Zoning Case Z2000-62**Applicant(s):** City of Frisco**Description:**

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**Remarks:**

Staff is recommending several changes to Article I, Section 11, "Changes and Amendments to All Zoning Ordinances and Districts and Administrative Procedures" to clarify administrative procedures. These changes include:

- Appeals

The Zoning Ordinance does not establish a time frame for which a zoning case denied by the Planning and Zoning Commission may be appealed to the City Council. Staff proposes that the applicant be allowed 14 calendar days to appeal and that the applicant be responsible for the cost for notification of the public hearing.

- Zoning Application

Each application for zoning or for an amendment to the existing provisions of the Zoning Ordinance shall be submitted to the Planning Department instead of the City Secretary (applications have been submitted to the Planning Department for a number of years). The amendment also empowers the Planning Department to maintain a list of specific requirements for zoning applications.

- Ordinance Preparation

Based on direction provided to staff by the Mayor and City Council, ordinances for approval of a zoning case are generally not placed on a City Council agenda for consideration until the zoning case is approved and the ordinance is reviewed by the City Attorney. This procedure is reflected in the proposed amendments.

- Notification Procedure

With this amendment, a case would no longer be notified at the same time for the Planning & Zoning Commission and City Council. Since many cases are tabled prior to approval, additional notification costs are being incurred by the City. Notifying public hearings for City Council after Planning and Zoning Commission's approval will save time and money.

- **Tabling Procedure**

Should an applicant wish to table an item, staff recommends that the applicant notify staff a minimum of seven calendar days prior to the meeting. This will save staff from preparing a report, Planning & Zoning Commission and City Council from reviewing staff's report, and interested parties from unnecessarily modifying schedules to attend a public hearings for a request which is scheduled to be tabled.

**Recommendation:**

Recommend for approval as follows: (For your convenience new text is underlined and deleted text is ~~struck out~~)

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- City Council
- Planning and Zoning Commission
- Owner of real property (or the authorized representative of an owner of real property)

In no case shall the City Council act upon any zoning request prior to recommendation by the Planning and Zoning Commission.

Each applicant for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall submit a zoning application (available from the Planning Department) be made in writing and filed on a form suitable to the Planning Department on or before a scheduled submission date City Secretary and shall be accompanied by payment of the appropriate fee as established by the City of Frisco, Texas. All applications received on a date other than an official submittal date shall be dated received on the next official submittal date. Applications must be complete for acceptance.

Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the Planning and Zoning Commission or City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit written proof of ownership.

### **Zoning Application Details**

To ensure the submission of adequate information, the Planning staff is hereby empowered to maintain and distribute a list of specific requirements for zoning applications. Upon periodic review, the Planning staff shall have the authority to update such requirements for zoning application details.

## **2. PUBLIC HEARING AND NOTICE:**

### **Zoning Changes**

Prior to making its report to the City Council, the Planning and Zoning Commission shall hold at least one public hearing on each application. Before the tenth day before the hearing date before the Planning and Zoning Commission, written notice of each public hearing before the Planning and Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved Municipal Tax Roll, of property within two hundred feet (200') of the property in which the change in classification is proposed. The notice may be served by its deposit in the municipality, property addressed with postage paid, in the United States mail.

Notice of City Council hearing shall be given by publication in the official newspaper of the City, stating the time and place of such hearing, a minimum of fifteen (15) days prior to the date of the public hearing.

### **Text Amendments**

Notice of hearings on proposed changes in the text of the Zoning Ordinance shall be accomplished by one publication not less than fifteen (15) days prior to both the Planning and Zoning Commission and City Council meetings thereto in the official newspaper of the City. Changes in the ordinance text which do not change zoning regulations and/or zoning district boundaries do not require written notification to individual property owners. ~~Notices for the public hearing for changes to the ordinance text before the City Council will also be published at the same time notice of the Planning and Zoning Commission meeting is published but not less than fifteen (15) days prior to the public hearing date(s).~~

**11.03 FAILURE TO APPEAR:**

The Planning and Zoning Commission may deny a zoning application if the applicant or representative fail to appear at one (1) or more hearings before the Planning and Zoning Commission.

**11.04 COMMISSION CONSIDERATION AND REPORT:**

The Planning and Zoning Commission, after the public hearing is closed, ~~the Planning and Zoning Commission may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application shall prepare its report and recommendations on the proposed change stating its findings, its evaluation of the request and of the relationship of the request to the Comprehensive Plan.~~ The Planning and Zoning Commission may ~~table defer its report for~~ not more than ninety (90) days from the time it is posted on the agenda until it has had opportunity to consider other proposed changes which may have a direct bearing thereon. Should the applicant wish to submit a request to table, the request shall be submitted in writing to the Planning Department a minimum of seven days prior to the meeting. In making their determination, the Planning and Zoning Commission shall consider the following factors:

- A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.
- B. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings.
- C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.
- D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
- E. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.
- F. Any other factors which will substantially affect the health, safety, morals, or general welfare.

If the Planning and Zoning Commission denies the zoning request, it may offer reasons to the applicant for the denial.

**Proposal Recommended for Denial by the Commission**

When the Planning and Zoning Commission determines that a proposal should be denied, it shall so report and recommend to the City Council and notify the applicant. If the proposal is denied by the Commission, the request shall not be forwarded to the City Council unless the applicant requests an appeal to the City Council or the request is sent for review by the Commission by simple majority vote. Upon denial by the Planning and Zoning Commission, the applicant may, upon his own motion within 14 calendar days, file with the Planning Department a written request that a public hearing be scheduled and held before the City Council regarding the application. The applicant shall be responsible for the costs of renotification, including postage. When a proposed zoning request is heard by the City Council that has been denied by the Planning and Zoning Commission, a three-fourths (3/4) majority vote by the City Council shall be required for approval. ~~A request which has been denied by the Planning and Zoning Commission and/or City Council may be resubmitted at any time for reconsideration by the City (a new filing fee must accompany the request).~~

**11.05 CITY COUNCIL CONSIDERATION**

- A. Proposal Recommended for Approval by the Commission:** Every proposal which is recommended favorable by the Planning and Zoning Commission shall be automatically forwarded to the City Council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
- B. City Council Consideration and Action:** City Council, after the public hearing is closed, may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application. Should the applicant wish to submit a request to table, the request shall be submitted in writing to the Planning Department a minimum of seven days prior to the meeting.
- ~~G. City Council Hearing and Notice:~~** ~~Notice of City Council hearing shall be given by publication at the same time notice is given for the Planning and Zoning Commission public hearing in the official newspaper of the City, stating the time and place of such hearing, which shall be at least fifteen (15) days after the date of publication.~~
- A. Three-Fourths Vote:** If a protest against a proposed amendment, supplement or change to a zoning regulation or boundary has been filed with the Planning Department ~~City Secretary~~, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots or land included in such a proposed change to a zoning regulation or boundary or the area of the lots, or land, immediately adjoining the area thereof extending two hundred feet (200') therefrom or of those directly opposite thereto extending two hundred feet (200') from the street frontage of such opposite lots, such amendments shall not become effective except by the affirmative vote of three-fourths (3/4) of all members of the City Council.
- B. Denial by City Council:** The City Council may deny any request with prejudice. If a request has been denied with prejudice, the same or similar request may not be resubmitted to the City for six (6) months from the original date of denial.

- C. Final Approval and Ordinance Adoption:** ~~Upon submittal of the zoning request by the City Council, the applicant shall submit a metes and bounds description of the boundaries of the zoning request and a metes and bounds description of any zone contained therein, to the City for the preparation of the amending ordinance. The amending ordinance shall be approved at the time the City Council makes a decision to approve the request as submitted or as modified. The amending ordinance will not be approved until correct property description as described has been prepared for the amending ordinance. Approval of any zoning change, amendment, or supplement by the City Council at the scheduled public hearing shall constitute instruction to City staff to prepare the appropriate ordinance for final formal passage at a subsequent time. If finally approved by the required number of votes, the ordinance shall be executed by the Mayor.~~

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- C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.
- D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
- E. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.

- F. Any other factors which will substantially affect the health, safety, morals, or general welfare.

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JW/sg

cc: Frank Jaromin  
Donnie Mayfield  
Mack Borchardt